

### **REMARKS/ARGUMENTS**

This Amendment with RCE is submitted in response to the final Office Action dated June 19, 2008, in which Claims 2 and 4-18 were rejected under 35 U.S.C. § 103(a). Claims 1 and 3 have previously been canceled. Claim 19 is newly added. Claims 2 and 4-19 remain pending. Reconsideration of these rejections and allowance of the pending claims is respectfully requested.

#### **Rejection over Dash in view of Brown et al.**

Claims 2, 9-14 and 16-18 have been rejected under 35 U. S.C. § 103(a) as being obvious over Dash (PCT/AU85/00159) in view of Brown et al. (U.S. Patent No. 1,360,720). Applicant respectfully traverses this rejection.

#### ***Independent Claim 18***

Dash discloses a steel handling pallet (ref. no. 10), for the transport of heavy loads of goods (page 1, lines 2-17). The pallet in Dash has a deck (ref. no. 11) and a base (ref. no. 12) welded to bearers (ref. no. 13) consisting of U-shaped channels (ref. nos. 30, 31) that have web portions (ref. no. 32) *parallel* to the deck and base and sloping legs (ref. nos. 33, 34). Claim 18 of the present application requires, *inter alia*, a metal pallet that has elongated bearers where each bearer is "formed of sheet metal and secured to and extending transversely between the decks," and where "each bearer has a first and a second longitudinally extending bearer portion, with each portion being secured to said decks and extending separately transversely between said decks and wherein each portion has a longitudinally extending top web secured to the top deck, a longitudinally extending bottom web secured to the bottom deck, a longitudinally extending central web extending generally *normal* to said decks, and longitudinally extending inclined web portions securing the central web to the top and bottom webs, each inclined web portion being inclined to the decks by an acute angle," (emphasis added).

The Examiner admits that Dash does not teach these features and relies upon the disclosure of Brown et al. Applicant respectfully submits that it would not be obvious to one of

ordinary skill in the art to modify the pallet of Dash to include features of Brown et al. for the foregoing reasons; thus the combination of these references is improper.

The Examiner asserts that because both Dash and Brown et al. are drawn to "a load supporting panel construction having reinforcement/bearer portions between two spaced apart panels/decks," (OA, 6/19/08 p. 5) it would have been obvious to one of ordinary skill in the art to combine them as described. Applicant respectfully disagrees. Brown et al. is directed towards a spar for an aircraft. A person of ordinary skill in the art of pallets would not consider a spar for an aircraft or any other part of an aircraft when designing pallets because a spar for an aircraft is subject to completely different loads than that of a pallet and the engineering problems to be solved are very different. In particular, there would be no reason for one of ordinary skill in the art faced with the pallet of Dash, which is designed for compression under a point load, to look at structures designed to withstand tension and twisting forces, but not to support point loads. The differences in the purpose and function of an aircraft spar from a pallet would not suggest to one of skill in the art that features or elements of an aircraft spar would be beneficial to the function of a pallet, nor is there any such showing or suggestion in either reference. Accordingly, the combination of Dash with Brown et al. would not have been obvious to one of ordinary skill in the art, and thus Applicant respectfully requests that the rejection of Claim 18 of the present application as obvious over that combination be withdrawn.

*Dependent Claims 2, 9-14, 16 and 17*

Claims 2, 9-14, 16 and 17 depend from Claim 18 and are allowable for at least the same reasons.

In addition, with respect to Claim 2, the present application requires that the central webs "are releasably securable together," which is not taught by Dash either alone or in combination with Brown et al.

Dash discloses a fixed pallet where all components are welded together (see, e.g., page 2, lines 9-14). The two U-shaped channels 30, 31 are welded together and are not in direct contact with the pallet deck or pallet base (see page 4, lines 2-5 and Figure 1). In contrast, the present invention is directed towards providing a multi-purpose metal pallet having detachable

components (see, e.g., page 1, lines 2-3). It is common for pallets to be damaged during use; for example, the load to be carried may be dropped onto the pallet or the pallet may be driven into other structures while carried by a forklift. Currently pallet owners incur huge expenses to replace damaged pallets. It is not economical to repair existing metal pallets; thus, in most cases, they are completely replaced when damaged. The present invention addresses this problem by allowing a pallet owner to replace individual damaged components of a metal pallet rather than replacing the whole pallet, such as replacing the individual portions that extend separately transversely between the decks rather than replacing the entire bearer. This feature significantly reduces the expenditure to the pallet owner. Dash does not show or suggest providing a multi-purpose pallet having such detachable components, nor is there a discussion of the problem addressed by the current invention; thus there is no suggestion to provide a solution to such problem.

Moreover, there is no motivation in Dash to modify the structure in accordance with that of the present invention. A person of ordinary skill in the art faced with Dash would have no need to change the bearer structure; when all components are welded together Dash provides a very reliable pallet. As discussed above, Dash is directed to a pallet having all parts welded together. If the parts of the pallet of Dash were detachable, Dash would not operate correctly and would fail under load because of the designed load structure of Dash (see, e.g., page 4, lines 1-24), which is different from that of the present invention. A modification to make Dash include parts that are detachable would require a complete re-engineering of the structure and load distribution.

As discussed above, Applicant submits that the combination of Dash with Brown et al. is improper; however, even if the references were combined, Applicant submits that they do not make obvious the feature as claimed in Claim 2 of the present invention. Specifically, there is no showing or suggestion in Brown et al. to provide any detachable components, and in fact, to include detachable components in the spar of Brown et al. would make it unsuitable for its intended use. Brown et al. discloses that all parts of the spar must be securely fastened together (col. 1, lines 41-43), and includes stiffening blocks (ref. no. 9) to provide additional fastening

(col. 2, lines 59-62). Use of releasably secured components as required by Claim 2 of the present application would compromise the structural requirements of the spar in Brown et al.; thus one of ordinary skill in the art would not find it obvious to provide such a feature, and would most likely be motivated against providing any releasably secured components.

The Examiner asserts that the claim language does not provide adequate structural limitations to distinguish over the references cited, and that the central webs of Brown et al. "certainly are 'releasably securable together,'" (OA, 6/19/08 p. 6). While limitations from the specification should not be read into the claims, the claims must be considered in view of the specification (see, e.g., MPEP 2111.01). Here, it is appropriate to consider how the term "releasably securable" is defined or described in the specification in order to interpret its meaning in the claims. For example, paragraph [0023] describes that the pallet of the present invention has releasably securable components such that "all components can be disassembled and reassembled or damaged components easily replaced." This disclosure in particular, along with the rest of the specification, provides a specific description of the meaning of "releasably securable" for the purposes of this application. Further, although the components of Brown et al. are secured to each other, as is critical for the function of the aircraft spar (and the safety of the aircraft itself), there is no similar teaching or suggestion in Brown et al. for releasably securable components as described here. While most any securing mechanism or fastening can be pulled apart or unfastened with the appropriate application of force and/or tools, that is not the same as two parts designed to be releasably securable to each other, as would be understood by one of ordinary skill in the art in view of the present specification.

Accordingly, Applicant submits that Claim 2 does provide adequate structural limitations to distinguish the claim from the references cited and that Dash in view of Brown et al. does not make obvious the features of at least Claim 2. Therefore, withdrawal of the rejection is respectfully requested.

**Rejection over Dash in view of Brown et al. and further in view of Sanders**

Claims 4-8 and 15 have been rejected under 35 U. S.C. § 103(a) as being obvious over Dash in view of Brown et al., and further in view of Sanders et al. (U.S. Patent No. 4,240,360). Applicant respectfully traverses this rejection.

Claims 4-8 and 15 depend from Claim 18 and are allowable for at least the same reasons. Therefore, Applicant respectfully requests that the rejection of Claims 4-8 and 15 be withdrawn on at least that basis.

In addition, with respect to the combination of Dash, Brown et al. and Sanders et al., Applicant respectfully asserts that a person of ordinary skill in the art would not be motivated to combine Dash with Sanders et al. as suggested by the Examiner. Dash discloses a fixed, welded pallet for carrying loads, while Sanders et al. teaches construction of pallets that can be nested one on top of the other. As discussed above, if the Dash pallet were modified to include releasable components, the structure and load-carrying ability of the pallet would be compromised. Accordingly, one of ordinary skill in the art would not find it obvious to include such releasable fastenings, as suggested by Sanders et al., in the Dash pallet. Thus, Applicant respectfully submits that the Examiner's rationale for combining Sanders et al. with Dash and Brown et al. is not supported.

Therefore, Applicant respectfully requests that the rejection of at least Claims 4-8 and 15 be withdrawn.

**Newly Added Independent Claim**

Claim 19 requires, *inter alia*, a detachable-component metal pallet that has at least two elongate bearers positioned between and extending lengthwise parallel to top and bottom decks, with each elongate bearer having first and second portions that are aligned such that their central webs abut each other and are oriented *perpendicularly* to the top and bottom decks. Further, Claim 19 also requires, *inter alia*, that the top deck, the bottom deck and the first and second portions are all configured to be able to be detached and replaced by replacement components.

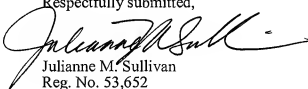
As described above, Dash, either alone or in combination with Brown et al. and/or Sanders et al., does not show or suggest such features. Further, Applicant submits that it would not have been obvious to one of ordinary skill in the art at the time of the invention to modify the cited references to provide such features. Accordingly, Applicant respectfully requests that at least Claim 19 be allowed.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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